

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VLAD LYUBOVNY p/k/a "DJ VLAD," : 08 Civ. 7252 (PGG)
Plaintiff, :
-against- :
WILLIAM LEONARD ROBERTS II p/k/a "RICK ROSS," : DECLARATION OF BRIAN
Defendant. : D. CAPLAN IN RESPONSE
: TO DEFENDANT'S
: MOTION FOR
: EXTENSION OF TIME TO
: OBTAIN COUNSEL TO
: FILE PLEADINGS AND
: MOTIONS
:
:
:
----- x

I, Brian D. Caplan, hereby declare, under penalties of perjury, pursuant to 28 U.S.C. 1746, as follows:

1. I am a member of the law firm of Caplan & Ross, LLP, attorneys for Plaintiff Vlad Lyubovny ("Plaintiff") in this action. I submit this Declaration in response to Defendant's Motion for Extension of Time to Obtain Counsel to File Pleadings and Motions.
2. Defendant is a highly successful recording artist and performer. Since 2006, his albums have sold over 1 million records. Compl. ¶¶ 12-13.
3. The occurrence at issue in this action, in which it is alleged that Defendant orchestrated and participated in a vicious beating of Plaintiff, occurred on August 10, 2008. Compl. ¶¶ 29-32.
4. This Complaint was filed shortly thereafter, on August 15, 2008.

5. By letter dated August 19, 2008, I wrote to Defendant's transactional attorney, Theodore Sedlmayer, advising him that this action had been brought, and requesting that he advise me as to whom Defendant had retained to represent him in this action. While I had one telephone conversation with Mr. Sedlmayer concerning my client's claims against Defendant, he did not otherwise respond to that letter. My partner, Jonathan Ross, then sent Mr. Sedlmayer a follow up letter dated September 25, 2008, advising him that Defendant had been served, and reiterating our request to be advised as to who would be representing Defendant in this action. Copies of these letters are annexed hereto as Exhibits 1 & 2, respectively.

6. As noted in Mr. Ross' letter, on August 30, 2008, the Summons and Complaint in this action were personally served on Defendant at the Freedom Hill Amphitheatre in Sterling Heights, Michigan, where he was performing that night. A copy of the sworn Affidavit of Service of the process server, is annexed hereto as Exhibit 3.

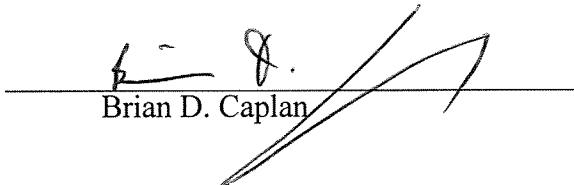
7. On October 15, 2008, Defendant served the instant motion, together with a motion to dismiss or transfer. Plaintiff will be filing separate opposition papers to that motion.

8. Defendant's motion papers do not dispute that he appeared at a concert at Freedom Hill Amphitheatre on August 30th or that he matches the description of Defendant contained in the Affidavit of Service.

9. While we do not oppose Defendant being granted a reasonable extension of time to obtain litigation counsel, I respectfully note that he and his representatives have been aware of this action since August, and Defendant assuredly has the wherewithal to obtain counsel expeditiously. Accordingly, we respectfully submit that a deadline of November 3, 2008 (one week before the scheduled date for the initial conference in this action) is appropriate.

WHEREFORE, it is respectfully requested, that Defendant be ordered to obtain counsel by no later than November 3, 2008.

Dated: October 24, 2008
New York, New York



Brian D. Caplan

EXHIBIT 1

CAPLAN & ROSS, LLP

Brian D. Caplan
Jonathan J. Ross

Nicole L. Mondschein †

OF COUNSEL
Joseph Einstein
† Also admitted in Florida

100 PARK AVENUE, 18TH FLOOR
NEW YORK, NEW YORK 10017

TEL: 212.973.2376
FAX: 212.661.4290

www.caplanross.com

Brian D. Caplan
Direct: 212.973.2377
bcaplan@caplanross.com

August 19, 2008

VIA FAX: (212) 925-0554

Theodore Sedlmayer, Esq.
Sedlmayer & Associates
200 Park Avenue South
New York, NY 10003

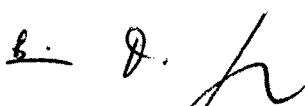
**Re: Vlad Lyubovny v. William Leonard Roberts II p/k/a "Rick Ross" 08
Civ. 7252 (Judge Gardepha)**

Dear Mr. Sedlmayer:

We are the attorneys for Vlad Lyubovny, p/k/a DJ Vlad, the plaintiff in the above action against Rick Ross. We understand that you are Rick Ross' transactional attorney. Please let us know when and whom your client retains as a lawyer to defend him in this action. In the interim, please be so kind as to advise your client that he is obligated to preserve any evidence that comes into his possession relating to the alleged assault on August 10 which is the subject of the above action. We are informed that a number of amateur and professional videographers are peddling videotapes of the incident. Should Rick Ross, or any persons acting on his behalf, acquire the same please instruct him not to destroy such material.

Thank you for your anticipated cooperation.

Sincerely yours,



Brian D. Caplan

Message Confirmation Report

Date/Time : AUG-19-2008 16:49 TUE
 Fax Number :
 Fax Name :
 Model Name : 1815dn

No.	Name/Number	StartTime	Time	Mode	Page	Result
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CAPLAN & ROSS, LLP
 100 Park Avenue, 18th Floor
 New York, New York 10017-5561
 Tel: 212.973.2376
 Fax: 212.661.4290

RECIPIENT	COMPANY	FAX NO.	PHONE NO.
Theodore Sedlmayer, Esq.	Sedlmayer & Associates	212.925.0554	

FROM: Brian Caplan **DATE:** August 19, 2008
PHONE: (212) 973-2377 **CUST/ MATTER #:** Vlad Lyubovny

Total number of pages including this page: 2.
 If you do not receive all the pages, please call 212.973.2376

ATTENTION RECIPIENT: <small>IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE. MY NUMBER IS 212.973.2376</small> <small>PLEASE FORWARD THE ATTACHED TO THE APPROPRIATE PERSON IN YOUR FIRM AS SOON AS POSSIBLE.</small> <small>THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY-CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE ADDRESSEES. IT MAY NOT BE COPIED, REPRODUCED, REVERSED, RESERIALIZED, DEDICATED, OR COPIED OR THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE.</small>
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EXHIBIT 2

CAPLAN & ROSS, LLP

Brian D. Caplan
Jonathan J. Ross

Nicole L. Mondschein ^t

OF COUNSEL
Joseph Einstein

^t Also admitted in Florida

100 PARK AVENUE, 18TH FLOOR
NEW YORK, NEW YORK 10017

TEL: 212.973.2376
FAX: 212.661.4290

www.caplanross.com

Jonathan J. Ross
Direct: 212.973.2378
jross@caplanross.com

September 25, 2008

VIA FIRST CLASS MAIL

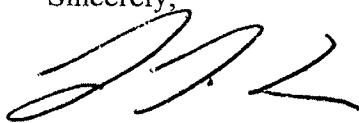
Theodore Sedlmayr, Esq.
Sedlmayr & Associates
200 Park Avenue South
New York, NY 10003

**RE: Vlad Lyubovny v. William Leonard Roberts II p/k/a "Rick Ross"
08 Civ. 7252 (Judge Gardephe)**

Dear Mr. Sedlmayr:

As you know, we are attorneys for plaintiff in the action referenced above. I understand that you are Rick Ross' transactional attorney. Since your prior conversation regarding this action with Brian Caplan, personal service of the summons and complaint upon Mr. Ross occurred on August 30, 2008 at his concert performance at the Freedom Hill Amphitheatre in Michigan that night. The Court has now scheduled a November 10 conference date in the action, and I enclose a copy of the Notice of Pre-Trial conference issued by the Court and a copy of the Judge's individual Rules of Practice. Please note that we continue to await your advice as to whom your client has retained to represent him in this action, as previously requested in Mr. Caplan's August 19, 2008 letter to you.

Sincerely,



Jonathan J. Ross

Enclosure

cc: Honorable Paul G. Gardephe, U.S.D.J.

EXHIBIT 3

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	8/30/08 8:35pm
NAME OF SERVER (PRINT)	TITLE	
Johnathan J. Wiles	Process Server	
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: Freedom Hill <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. <i>sterling high, MI</i> <input type="checkbox"/> Name of person with whom the summons and complaint were left: <input type="checkbox"/> Returned unexecuted: <input checked="" type="checkbox"/> Other (specify): Personally delivered upon William Leonard Roberts II <i>P/K/A Rick Ross 6'1" 280lbs-300lbs African American I AM FAMILIAR WITH RICK ROSS AS I AM A FAN OF HIS!</i>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on <u>8/30/08</u> Date <u>Johnathan J. Wiles</u> <small>Signature of Server</small> <u>25140 Latser Rd #C141 Southfield, MI</u> <small>Address of Server</small> <u>43053</u>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

CERTIFICATE OF SERVICE

I, Nicole L. Mondschein, hereby certify that on October 24, 2008, I caused to be served a true and correct copy of the within Declaration of Brian D. Caplan in Response to Defendant's Motion for Extension of Time to Obtain Counsel to File Pleadings and Motions, by First Class Mail, upon the following:

William Leonard Roberts II
1750 Northwest 193rd Street
Opa Locka, Florida 33056
Defendant, *Pro Se*

Dated: October 24, 2008
New York, New York



Nicole L. Mondschein (NM 5610)